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JUSTICE FOR THE IMMIGRANT

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The United States government has recently spent over \$700,000 in a comprehensive investigation of immigration. One volume is devoted to crime. This consists of more than 400 pages containing an analysis and classification of crimes based upon court records. There is no attempt made to analyze the provisions of the laws violated nor the manner by which these violations were made into court records through legal procedure. In fourteen volumes which the Immigration Commission devotes to industrial conditions, no mention is made of the administration of justice in small industrial communities, of which there are thousands, made up largely of immigrants.

The investigation of peonage in the South opened the eyes of Americans to the way in which justice can become subservient to industrial necessities and business expediency. It is no part of my purpose to discuss the use or abuse of laws during labor disturbances. That investigation is already under way. But what Americans should wish to know is whether the laws as at present administered in times of peace are giving the immigrant equal protection. We look upon courts as places of punishment and the immigrant regards them with fear. In reality they fill a much larger place than this. They are the educational centers through which men, whether complainants, defendants, witnesses, or hangers-on, receive their lasting impressions of fairness, justice and equality, and in accordance with which they become law-abiding, right-minded and right-feeling citizens, or go forth with hatred in their hearts, curses on their lips and the desire to make war on a society which denies them justice.

The immigrant does not start the race fair with the American. We expect him to know the multitude of laws and ordinances and regulations in a strange country with the institutions and customs and organization of which he is unfamiliar. We expect the peasant to adjust himself immediately to a complicated city system. We

expect him to learn to be law-abiding technically as well as intentionally with the heavy handicap of not knowing English. All this notwithstanding, as a government, we do nothing to instruct him or inform him, either when he lands or goes into our industries, as to his responsibilities or duties or obligations. We are content to leave this to the padrone, the immigrant banker, the notary public, the saloon and to such associates as he may find or friendly welfare associations as he may chance upon.

It is inevitable under these conditions that the administration of justice should in many instances bear one relation to the alien and another to the American. I am here concerned more with a system of law enforcement which makes injustice, subservience to business interests, dishonesty and the perversion of justice easy than with the corruptness of the men who administer the laws.

In the brief space at my disposal I hope to call attention to a few of the conditions found in the course of my investigations, which I hope will lead to such a study of our statutes and procedure as will restore the equality of the law, and will lead to an analysis of criminality among aliens which will include among its causes and explanations the content and administration of laws.

To what extent the present administration of law affects the statistics of crime, unjustly brands ignorant offenders as criminals or confirms them as such, perverts their sense of justice and destroys their respect for law and order, are unanswerable questions, in the absence of such information. We are approaching the time when convictions for violations of ordinances such as traffic regulations, sanitary codes, health laws and similar measures of precaution, violations of which do not imply criminality, will not be tried in criminal courts, but in municipal and other civil courts where fines and not imprisonment will be the chief penalty imposed.

Justices of the peace and police justices. These influence the life of the immigrant most directly. The way in which the law treats his every-day frailties in such matters as drink, disorderly conduct, vagrancy, trespass, assault and battery, petit larceny, and his civil differences with his neighbor is the immigrant's measure of the effectiveness and fairness of regulation. The way in which it treats his complaints of wages unpaid, oppression, and regard for his personal rights and property is a guide to his future actions in relation to his fellows.

New York may be taken as more or less typical of the prevailing system. Justices are elected, not appointed, and are therefore removable only by the appellate division of the supreme court through a long and difficult process. This is further safeguarded by requiring a bond from the person making charges, to be available in case of the failure of such charges. Under this system justices are responsible only to the board of supervisors in matters of depositing fines and receiving fees and are usually members of the town board. Under an appointive system direct responsibility would be established. The common use of these offices as political awards tends still further to lower the standard of qualifications.

Any male citizen, other than a tavern keeper, over 21 years of age, is eligible to office regardless of any general or legal education of any kind. This justice with no knowledge of law, or specific qualifications, is entrusted with power to issue warrants, administer oaths, take testimony and deprive defendants of property by imposing fines, and of liberty by imposing sentences not exceeding one year.

Justices receive no salaries and are paid under a fee system which puts a premium on delays and convictions. The uncertainty of the fees provides so precarious a livelihood that such justices usually have other occupations. There is no prohibition against their being employed by the industry upon whose continuance the whole community frequently depends. Teamsters, machinists, or clerks of such companies fill such positions.

Fees are based upon certain acts specified by law which include among others the following: Issuing summonses and warrants, swearing jurors, drawing affidavits, swearing witnesses, every necessary adjournment of cases, entering sentence of court 25 cents, and for record of conviction 75 cents, and for services when assisting other justices \$2 a day. All fines are deposited with the town clerk and the law prohibits the retention of any part of these. This system encourages delays, multiplicity of papers, adjournments and convictions. In one court where 60 cases were examined one-third of the sentences were suspended, permitting the collection of the additional fee for record of conviction.

The rules of evidence which safeguard defendants in other courts are not observed, corroboration is not required in serious

offenses like larceny, interpreters are not furnished and complainants and constables are permitted to serve as such.

The power of justice courts in some states is broader than is generally known. They may have such questions as constitutionality of the law argued before them but rarely take cognizance of it. They may stay proceedings, if the parties appear and state that they have received satisfaction, providing the reason for the stay is set forth in the records. This makes it easy to use the powers of the justice to compel settlements upon threat of fines or imprisonment, if he so desires.

In New Jersey the practice is to collect fees directly from the litigants. The law of 1898 provided that no fees should be allowed justices unless the person against whom the complaint was made was convicted. In 1901 this was amended so that a justice who filed a bill of particulars of costs to the clerk might be paid if there was no conviction. An investigation in a number of counties showed that this law was not being enforced. In other words, the administrators of law violated the provisions governing their own offices. In some of the largest cities of the state the justice has no authority to try the case but issues the warrants which must be paid for when issued. This has led to the common expression among the foreigners: "I am going down to buy a warrant against you." An investigation of 38 warrants issued by one judge showed that only 7 were held for trial.

In making the following statement of notable instances which came to my attention among others, I wish to make it clear that under the present system hundreds of justices are administering the law fearlessly and honestly and with due regard to the rights of all. At the same time, I wish to point out that the system is such that it depends upon the man elected and not upon the laws which govern his office and the manner of his election whether his office is an instrument of justice or a tool in the hands of those who wish to oppress, exploit, and intimidate the ignorant immigrant unfamiliar with American laws, institutions and customs. That these officers are being used for such purposes there is abundant proof. The contempt in which the office is held; the use of it as a reward politically; its frequent isolation from publicity centers; the clan spirit with which the American element holds together, preventing publicity; the race prejudice existing in small towns; and the isola-

tion of the immigrant by districts and by language increase the necessity for every safeguard being afforded by these courts.

The writer was called upon to investigate a small industrial community in which it was alleged that oppression, extortion and graft prevailed in the administration of the justices' court. The company practically owned the town except the saloons. It employed one of the justices and its counsel was county judge. A saloon-keeper and a padrone were the interpreters when one was needed. It was found in the case of both justices that bills and claims for fees have been presented to the supervisors and paid which the docket did not substantiate; that they had failed to file records as required by law; that they had falsified accounts and settled cases in violation of law, there being no record kept; that they had neglected to transmit the fines to the clerk within the time specified by law; and that they were incompetent as shown in their conduct of trials. I submit briefly the records of several cases showing what occurred in that village, and the connection between the saloon-keeper, the policeman, and the justices.

The defendant was employed as a domestic by a saloon-keeper who also acted as the court interpreter. She left his employ without notice. He threatened "to get even" with her and later accused her of stealing \$90. She was haled before the justice who compelled her to settle under threat of jail. Aside from the accusation of the saloon-keeper, no other evidence was taken.

The defendant was arrested during a fight and was ordered to pay \$15 for a torn coat and \$12.50 for "court expenses." Only the complainant's testimony was taken, yet both he and the defendant were each required to pay \$5 for the interpreter.

Two defendants testified that they had been arrested and "sentenced" to settle a claim of \$50 for apples picked by their wives. They paid \$40 in court and paid the balance to the policeman. In addition they paid "\$12.50 costs."

A complainant in a case testified that after being assaulted by the defendant he paid the local police officer \$12 (\$6 for himself and \$6 for the justice) in order to have the defendant arrested and be found guilty. The latter was arrested the following day and was fined \$5.

The defendant did not buy his beer for a christening from the saloon-keeper interpreter. He was thereafter arrested for violating some Sunday law, and was fined \$75 by the justice.

The complainant in a civil action for breach of contract brought before the justice testified that he had rented a boarding house from the saloon-keeper interpreter. As the latter's saloon was not patronized by the complainant's boarders, he shut off the water supply for the house. The complainant

was forced to move and sold his furniture for \$245, receiving a deposit of \$100. The saloon-keeper advised the purchaser not to pay the balance and sent word to the complainant that unless the deposit was returned, he would have him sentenced to jail. He returned the deposit and sold his furniture to another for \$180, receiving a \$50 deposit, but the latter was also advised by the saloon-keeper not to pay the balance. The complainant appealed to the justice, who later gave him \$23.33 as his share of the amount collected, although the purchaser testified that he had given the justice about \$60. No record could be found of the disposition or settlement of the case.

The defendant was arrested on a charge of assault in the third degree. The interpreter called the defendant outside of the court room and informed him that the justice said it would take \$55.35 to "settle the case," otherwise he would be sent to jail. The defendant, the justice and the interpreter then went to the latter's saloon where a check for this amount was made out to the order of the interpreter who testified that he gave the justice the full amount thereof in cash. The justice then returned to the court room alone and paid the complainant, who had been told to wait for him, the sum of \$31.50, for which he signed a receipt according to the latter's sworn testimony. The justice's docket when examined later contained the entry "Guilty: sentence suspended, has two small children: no funds," and showed that the costs had been assessed at \$3.80. After deducting the interpreter's fee of \$3, there still remained \$20.85 unrecorded and unaccounted for. While this investigation was being conducted, the complainant was compelled to sign a new receipt for \$45, while the defendant was advised to leave town and threatened with discharge from work.

A dispute as to the non-payment of a debt of \$10 had arisen between a saloon-keeper and the defendant. As the latter was about to leave the village en route abroad, he was arrested at the railroad station at 10 p.m. and immediately brought before the justice, who forced him to pay the sum of \$19. The difference between the debt and the amount paid was in reality in the nature of a "fine" as the costs in all cases are charged to the town.

The defendant had been arrested on a charge of petty larceny. He paid the justice \$5 out of court and when the case was later called, was informed he was discharged. The docket however read that sentence had been "suspended," thereby making him guilty of the crime. As a matter of fact, the defendant should not have been originally charged with the crime, as an employee had actually taken the money in question, each individual being responsible for his own individual acts.

Warrants of arrest for assault in the third degree had been issued against 6 persons. Only four had been apprehended, yet the other two, according to the docket were noted as "Guilty: sentence suspended."

These justices are holding office today. The investigation was completed in the summer when the supreme court vested with the power of removal was not in session. The owners of the industry involved took advantage of this, and as they were the political leaders of the county and

the main taxpayers their interference was successful. Some of the complaining witnesses were dismissed and as there was no other industry near, they left for parts unknown; affidavits were subsequently obtained under duress in which they denied their testimony. They were intimidated, they were bribed to leave town and the action for removal was delayed on one pretext or another until the whole case was rendered so weak that successful prosecution was doubtful. Never was a better case presented on behalf of the recall of judges which would have permitted the facts to have been laid promptly before the people. As it was, even publicity was denied as the county papers were also under the control of the owners.

In another case four men complained that they had been illegally arrested for petit larceny. Six immigrants left an employment agency in New York September 22 to work on the construction of a dam for a large paper factory. Their fare of \$3 by boat and 75 cents for meals and the fee for the job were to be deducted from their first wages. They arrived about 10 a.m. September 23 and were to go to work on the morning of the 24th. They were told by the padrone that they could have no food until they paid for it. Two of them had money but the four others did not. The four were given a piece of bread and some sausage which was all the food they had from noon September 22 until the morning of September 24 when they refused to work without breakfast and went away. The justice was employed as machinist by the company and the superintendent said he wanted to make an example of them for not working out their fare and they were arrested and sentenced to 30 days in jail, but were promptly released on habeas corpus proceedings brought by the state bureau of industries and immigration.

The following letter from an alien in Pennsylvania is of interest:

In this county, and particularly in this borough, it has become the practice of justices of the peace and others who are aiding in the scheme to extort money in various ways from the foreign people. One of the principal things practiced is to bring them in before the justice of the peace on some criminal information, whether they have violated the law or not, and then demand large sums of money from them under the guise of a settlement, and then let them go, or in some instances hold them for court expecting that they will still pay more money, and if so, then manage to get the case *nol-prossed* without a trial. Others who seem to live upon what they can extort by some means from these foreigners, have a practice of going to them and demanding

money under threat that if they do not pay they will be taken to jail. It is very hard for any one located here to get a hold on the people who are practicing these things, for they are combined together, and threaten the foreigners if they tell these things.

The following case, among many others, was submitted in support of this statement:

In December, 1912, a Pole was arrested for selling liquor without a license and when brought before a justice was informed that the case could be settled for \$200 for the complainant, and \$100 as costs for the justice. The Pole could not, or did not put up the money, and the justice was about to send him to jail, when an accomplice in the foreign exchange department of a bank made an offer to go bail for him if he would go home and bring up his bank book so that he could fix the bank account to protect him for going his bail. This was arranged, and the Pole went home but did not come back with the bank book, but went away, and was not in the county for about six months.

When this accomplice learned that the Pole had left, he and the justice between them issued a warrant for the arrest of the wife of the Pole, when the justice had no information against her then or at any other time, and placed the warrant in the hands of a member of the state constabulary who went to arrest her. The Catholic priest and railway agent at that place interceded for her, and found her handcuffed in her house waiting until train time and under the custody of the officer. The priest called up the justice on the phone and asked him whether he would not accept him as bail for her, and allow her to remain at home, as she had three young children there and no one to care for them if she was taken away. He replied that he would not accept the priest as bail, but if she would turn over her bank book to the officer she might remain at home, and if not she would have to be brought to court, and the three young children with her if necessary. She had no bank book to put up at that time, and the constabulary took her and her three small children to jail. The accomplice met them near the jail as the officer was bringing them in, and said to her, "Now you will stay in jail." This was on a Saturday evening, and they all were placed in jail and remained there until Monday some time, when he got uneasy for fear the humane agent would get to know about it, and went with a woman to the jail and proposed to take the children out and take them to the woman's house. The children cried, and then they took her and the children all out to the house of this woman, who kept a sort of restaurant in the town. Here they were kept for about two days and hounded for money or a bank account.

Naturalization. The admission to citizenship is the highest honor which this country can confer. No act should be so free from exploitation as this. The federal government has established a high standard of qualifications. But in addition to this a number of states have passed laws making the earning of a livelihood depend-

ent upon naturalization or the obtainment of first papers. This immediately opens the door to graft, encourages dishonesty and makes naturalization not a high privilege but a condition precedent to going to work. This results in wholesale evasion of the law, which is a part of the early education of the newly arrived alien, whose first introduction to America is as a protected law breaker. These laws apply primarily to employees on public works and to trades in which a license is required. In New York City, this restriction has led to wholesale frauds and exchanges in licenses and there are records showing that the little Greek boys who peddle flowers have been arrested as many as five times during their first few months in the country for peddling without a license. The padroni say it is cheaper to pay fines, as they cannot get licenses. The political leaders also turn this requirement to great advantage by assisting members of their clubs to obtain first papers and licenses, thereby controlling the voters. From among many cases this is of significance:

An alien had his first papers and wanted to get his final papers. A runner and shyster lawyer offered to get them for him. He turned over his first papers and paid \$5 to the lawyer and was told to deposit \$9 with a saloon-keeper as a guarantee. He was taken four times to the court and the lawyer demanded his expenses paid. The alien had no money and was asked to sign a paper which he found was used afterward to collect the \$9 deposited with the saloon-keeper. Five dollars more was then demanded and he signed a memorandum agreeing to pay the runner for his services as follows:

Lost time, May 8, 9, 10.....	\$6
One day lost, May 19.....	5
Spare time given to lawyer, May 28.....	4
Lost one day, June 11.....	5
Spare time given to lawyer, June 14.....	2
Spare time given to lawyer, June 18.....	2
	<hr/>
	\$24

At the time the case came to my notice he had lost his first papers, paid \$14, lost several days' work, and had not obtained his papers.

The extent of these frauds is colossal. Bogus naturalization societies and schools for English have been found which are covers

for "ambulance chasers," insurance schemes, and land sales. One such society had over 3,000 persons registered.

There is a bill now pending before Congress asking for a commission to take up this whole subject and recommend adjustment of the inequalities and elimination of abuses, and I doubt if there is any subject more in need of such an investigation.

It is difficult to maintain a theory of equal rights for all in the face of some of the laws which have been enacted. It were far better in my judgment to maintain a strict and consistent policy of exclusion for the protection of American laborers than to discriminate against men to whom we have opened our doors, and who do not understand this version of justice. Such are the workmen's compensation laws where aliens are specifically excluded from becoming beneficiaries, or where non-resident families may not receive more than two-thirds of the amount payable to resident families, or where the amount for aliens is limited to a maximum of \$750.

On the other hand, the establishment of governmental agencies looking toward the assimilation of immigrants has been strenuously opposed as discriminating and as tending to increase immigration. The past decade has seen, however, a steady development of such agencies. One of the most important of these is the establishment by New York state of a bureau of industries and immigration, which creates in effect an immigrants' court. This has the power to make investigations, hold hearings and make adjustments. This experiment has done more to reduce the law's delays, obtain justice and fair treatment for the immigrant and maintain his faith in American freedom and justice than any other one single experiment.

California has recently established a commission on immigration and housing with similar powers, and Cleveland has established the first municipal agency in the form of a city immigration bureau, which takes charge of all immigrants in need of information, advice and assistance.

It is through such measures and agencies as these that the alien will finally receive the full measure of justice which should accompany his admission, and it is to these we must look for a better knowledge and administration of our laws through the minor courts which bear so important a relation to the immigrant.